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FILED DISTRICT COURT
Third Judicial District

JAN 21 2003

AP
SALT LAKE COUNTY
Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

<p>UTAH DEPARTMENT OF TRANSPORTATION, Plaintiff, vs. BRUCE L. MOESSER and LAJUANA M. CAMPBELL, Defendants.</p>	<p>AMENDED FINAL ORDER OF CONDEMNATION Project No. SP-0172(3)3 Parcel No. 58 and 58:E Civil No. 010900095 Judge L. A. Dever</p>
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FINDINGS

Oral argument was heard on September 17, 2002 on Defendant's Motion for Partial Summary Judgment and declaratory Judgment. Appearing for Plaintiff was Edward O. Ogilvie, Assistant Attorney General. Appearing for Defendants was J. Steven Newton of Business Law Associates. After considering the arguments, the record and memoranda, the courts finds that:
(1) Claims deriving from negligent design or the construction of improvements by UDOT not

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normally contemplated at the time of service of the Summons upon Defendants are permissible counterclaims under Rule 13 of the Utah Rules of Civil Procedure; (2) There is no dispute as to the amount of property or value of property taken in this condemnation action; (3) an arbitration award has been entered in the amount of \$51,540.00; (4) the arbitration award was not appealed by either party; (5) the state has previously deposited \$36,600.00 into Court; (6) the amount previously deposited into court is deficient by \$14,850.00 as found by the arbitrator; (7) Defendants are entitled to interest at 8% per annum on the deficiency of \$14,850.00 pursuant to Utah Code Annotated 78-34-9(5)(c) from the date of the Order of Immediate Occupancy, February 7, 2001.

ORDER

It appearing to the Court and the Court now finds that pursuant to the law, the Plaintiff did pay the sum of \$53,628.00 to the Defendants, representing \$36,600.00 previously deposited into Court and a deficiency of \$14,850.00 plus interest at 8% per annum from February 7, 2001 to December 7, 2002 on the deficiency; and

It further appearing to the Court that the Plaintiff has made all payments as required by law and order of this Court, and that this is not a cause where any bond was required to be given, and all and singular the law in the premises being given by the Court understood and fully considered,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the parcels of land

hereinafter described as hereby taken and condemned, Parcel No. 58 in fee simple title and a perpetual easement as to Parcel No. 58:E, for the use of the Plaintiff, Utah Department of Transportation, for highway purposes to plan, designate, establish and regulate the same.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said use is a public use and a use authorized by law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a copy of this Amended Final Order of Condemnation be filed with the County Recorder of Salt Lake County, State of Utah, and thereupon the property interests hereinafter referred to and set forth shall vest in the Plaintiff, Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah 84119. The following is a description of the property condemned as hereinabove provided, which is hereby vested in the Plaintiff, all of such property being situated in Salt Lake County, State of Utah, and the interest acquired and property description is more particularly described as follows:

Parcel No. 0172:58

A parcel of land in fee for the widening of existing State Highway 172 known as project No. 0172, being part of an entire tract of property situate in the NW¼ NW¼ of Section 36, T.1 S., R.2 W., SLB&M. The boundaries of said parcel of land are described as follows:

Beginning at the northwest corner of said entire tract, which point is 191.110 meters (627.00 feet) South from the Northwest Corner of said Section 36; and running thence East 15.160 meters (49.74 feet) along the northerly boundary line to a point 15.160 meters (49.74 feet) perpendicularly distant easterly from the centerline of said project, opposite Engineers Station 2+026.342; thence South 50.292 meters (165.00 feet) to the southerly boundary line of said entire tract; thence West 15.160 meters (49.74 feet) along said southerly boundary line to the southwest

corner of said entire tract; thence North 50.292 meters (165.00 feet) along said westerly boundary line to the point of beginning.

The above described parcel of land contains 762.4 square meters (8206 square feet) in area of which 505.7 square meters (5443 square feet) is now occupied by the existing highway. Balance 256.7 square meters (2763 square feet) in area.

(Note: Rotate all bearings in the above description 0°02'07" clockwise to equal highway bearings.)

(Note: To obtain distances in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet.)

Parcel No. 0172:58:E

A perpetual easement, upon part of an entire tract of property, situate in the NW¼NW¼ of Section 36, T. 1 S., R. 2 W., S.L.B.& M., in Salt Lake County, Utah, for the purpose of constructing thereon irrigation facilities, utilities, and appurtenant parts thereof, to facilitate the widening of State Highway 172, known as Project No. 0172.

Said part of an entire tract is a strip of land 3.000-meters wide, adjoining easterly the following described portion of the easterly Highway right of way line of State Highway 172 of said project:

Beginning at the intersection of the easterly Highway right of way line of State Highway 172 and the northerly boundary line of said entire tract, which point is 191.110 meters (627.00 feet) South and 15.160 meters (49.74 feet) East from the Northwest Corner of said Section 36, at a point 15.160 meters (49.74 feet) perpendicularly distant easterly from the centerline of said State Highway 172 at Engineers Station 2+026.342; and running thence South along said easterly Highway right of way line 50.292 meters (165.00 feet) to the southerly boundary line of said entire tract. The above described strip of land contains 150.9 square meters (1624 square feet) in area.

After said irrigation facilities and utilities, and appurtenant parts thereof, are constructed on the above described strip of land at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said irrigation facilities, utilities, and appurtenant parts thereof.

Also:

A temporary easement, upon part of an entire tract of property, to facilitate the construction of cut and/or fill slopes, a driveway and appurtenant parts thereof. The boundaries of said part of an entire tract are described as follows:

Beginning at a point in the southerly boundary line of said entire tract, which point is 241.402 meters (792.00 feet) South and 18.160 meters (59.58 feet) East from the Northwest Corner of said Section 36, T.1S., R.2E., at a point 18.160 meters (59.58 feet) perpendicularly distant easterly from the centerline of said project, opposite Engineers Station 1+976.050; and running thence North 11.275 meters (36.99 feet); thence East 2.665 meters (8.74 feet); thence South 5.235 meters (17.18 feet); thence West 1.410 meters (4.63 feet); thence South 6.040 meters (19.82 feet) to the southerly boundary line of said entire tract; thence West 1.255 meters (4.12 feet) along said boundary line to the point of beginning. The above described part of an entire tract contains 21.5 square meters (231 square feet) in area.

The herein above described temporary easement shall expire upon completion of said project, or 5 years after the date of the execution of the within instrument, whichever first occurs.

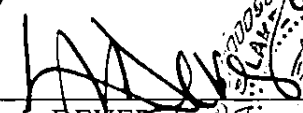
After said cut and/or fill slopes, driveway and appurtenant parts thereof, are constructed on the above described part of an entire tract at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said cut and/or fill slopes, driveway, and appurtenant parts thereof.

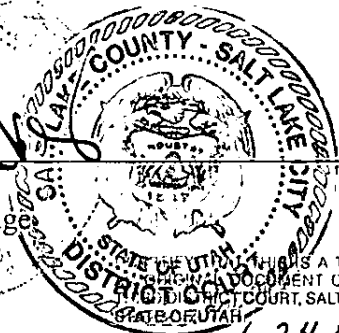
(Note: Rotate all bearings in the above descriptions 0°02'07" clockwise to equal highway bearings.)

(Note: To obtain distances in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet.)

DATED this 23 day of January, 2003.

BY THE COURT:


L. A. DEVER
District Court Judge



DATE 1-24-03


DEPUTY COURT CLERK

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing AMENDED FINAL ORDER OF CONDEMNATION was served by mailing the same, first-class postage prepaid, this

7th day of January, 2003, to:

J. Steven Newton
Business Law Associates
Attorney for Defendants
8170 South Highland Drive, E-5
Sandy, UT 84093


Secretary